IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

OP.No. 19026 of 1999(M)

PETITIONER:

E.V.VARGHESE,
EDACHERIL HOUSE,
ANGAMALI.P.O.,
ERNAKULAM DISTRICT.

BY ADV. SRI.K.P.SREEKUMAR
SRI.C.K.KARUNAKARAN
SRI.J.JIOTHIS KIRAN

RESPONDENTS:

THE DISTRICT COLLECTOR,
ERNAKULAM DISTRICT.

BY SHRI.P.RAVINDRA BABU, GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO. 19026/1999

ORDER ON CMP NO.31228/1999 IN O.P.NO. 19026/1999

DISMISSED.

14/12/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF FORM 1 NOTICE DATED 15/03/1999 ISSUED BY 3RD RESPONDENT.

P2 : COPY OF FORM 10 NOTICE DATED 15/03/1999 ISSUED BY 3RD RESPONDENT.

P3 : COPY OF PROCEEDINGS NO.B11-15131/99 DATED 30/03/99 OF 1ST RESPONDENT.

P4 : COPY OF JUDGMENT IN O.P.NO. 9191/1999.

P5 : COPY OF OBJECTION DATED 16/06/1999.

P6 : COPY OF PETITION DATED 20/07/99 BEFORE THE REVENUE SECRETARY, GOVT. OF KERALA.

P7 : COPY OF PETITION DATED 24/07/99 ADDRESSED TO THE RESPONDENT.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 19026 of 1999

Dated, this the 14th day of December, 2007

J U D G M E N T

Petitioner is, in this Court a second round, challenging recovery proceedings initiated for recovery of arrears of loan availed by a company of which the petitioner was a guarantor for Rs.3.6 lakhs. It is seen from Ext.P4 judgment that petitioner's claim was allowed by this Court and this Court directed that recovery against petitioner should be limited to Rs.3.6 lakhs with interest thereon based on guarantee furnished by petitioner. Petitioner's apprehension, that full amount of above Rs.2.2 crores is proposed to be recovered from petitioner, is absolutely out of place and if there is any such move, it is for the petitioner to move contempt of court case in this Court, as such proposal will be in violation of Ext.P4 judgment. It is to be noted that petitioner has not come forward with clean hands to this Court, because petitioner has not deposited Rs.3.6 lakhs with interest thereon in terms of Ext.P4 judgment, which was issued 8 years back. There is no bona fides in the original petition filed. This original petition is, therefore, disposed of with direction to the petitioner to immediately deposit Rs.3.6 lakhs with interest thereon from the date of demand till date

of payment before the District Collector within a period of one month from the date of receipt of a copy of this judgment, failing which, respondents can proceed not only for recovery but also for initiating contempt of court case against the petitioner before this Court for violation of above direction. Even though, petitioner has pleaded limitation, I do not think petitioner is entitled to plead limitation because the issue is covered by resjudicata by virtue of Ext.P4 judgment, whereunder this Court held that petitioner is liable to pay Rs.3.6 lakhs with interest thereon.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg